

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:23-cv-319-RJC**

AUSTIN AMOS BYRNSIDE, )  
                            )  
Plaintiff,               )  
                            )  
vs.                       )                           **ORDER**  
                            )  
LOWELL GRIFFIN, et al., )  
                            )  
Defendants.             )  
                            )  
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**THIS MATTER** is before the Court sua sponte.

The pro se Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Henderson County Detention Center. [Doc. 1]. The Complaint passed initial review on claims asserted against Defendants Lowell Griffin, Dylan Rollins, Brandon Hemphill, and Cameron Burrell. [See Doc. 8]. On April 12, 2024, these Defendants were served and filed an Answer, and Defendants Rollins, Hemphill, and Burrell asserted a Counterclaim for assault and battery against the Plaintiff. [Doc. 13]. The Plaintiff has not answered or otherwise responded to the Counterclaim and the time to do so has expired. See Fed. R. Civ. P. 12.

Defendants Rollins, Hemphill, and Burrell shall take further action to prosecute the Counterclaim within fourteen (14) days of this Order. Failure to take any such further action shall result in the dismissal of the Counterclaim without prejudice.

The Court notes that the Plaintiff has filed a Letter with the Court in which he asks to begin discovery. [Doc. 16]. The Plaintiff is reminded that he must request relief from the Court in a

“Motion,” and that he must include the case number at the top of the first page of any filing he wishes to be docketed in this case. [See Doc. 3: Order of Instructions]. Moreover, discovery has not yet begun in this case and, in any event, discovery should not typically be filed with the Court. [Id.]. The Plaintiff is cautioned to comply with the applicable procedural rules and this Court’s Orders; the failure to do so may result in the imposition of sanctions.

**IT IS, THEREFORE, ORDERED** that Defendants Rollins, Hemphill, and Burrell shall take further action to prosecute the Counterclaim within **fourteen (14) days** of this Order. Failure to take any such further action shall result in the dismissal of the Counterclaim without prejudice.

The Clerk is respectfully instructed to mail the Plaintiff a copy of this Order and of the Order of Instructions [Doc. 3].

**IT IS SO ORDERED.**

Signed: May 30, 2024



Robert J. Conrad, Jr.  
United States District Judge

